

Serial No. 09/988,062.

Reply to Office Action of January 24, 2006

### REMARKS

By the present response, Applicant has submitted new claims 12 and 13 for consideration by the Examiner and assert that these claim do not contain any prohibited new matter. Further, Applicant has amended claims 1, 3-7 and 9-11 to further clarify the invention. Claims 1, 3-7 and 9-13 remain pending in the present application. Reconsideration and withdrawal of the outstanding rejections and allowance of the present application are respectfully requested in view of the above amendments and the following remarks.

In the Office Action, claims 1, 4, 5-7 and 11 (sic) have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,249,897 to Lin et al. (hereinafter "Lin") in view of U.S. Patent No. 5,729,557 to Gardner et al. (hereinafter "Gardner") Claims 4 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin and Gardner and further in view of U.S. Patent No. 6,898,417 to Mouldsley.

#### 35 U.S.C. § 103 Rejections

Claims 1, 3, 5-7, 9 and 11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin in view of Gardner. Applicant respectfully traverses these rejections.

Regarding claims 1 and 7, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of these claims. For example, the Examiner asserts that Lin discloses performing the data retransmission by decreasing the initial coding rate and increasing the power

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according to the retransmission request, at col.4, lines 21-27. However, these portions merely disclose that if the stored message is to be retransmitted, the retransmission will occur at a power level greater than the first transmission. This is not performing the second transmission by decreasing the initial coding rate and increasing the transmission power according to the second transmission request, as recited in the claims of the present application. These portions merely disclose that the second transmission will occur at a second power level greater than the first power level only.

Further, Lin can not easily expect the changing of the coding rate when the second transmission is performed because Lin discloses the retransmission through only increasing power level, if transmitter does not receive L2 message from the receiver during a predetermined time (see, col. 1, lines 27-42 and col. 4, lines 21-27). Generally, the increase of the transmission power is only performed by the operation of transmitter. However, the change of the coding rate is performed through interaction between transmitter and receiver. In addition, an adjustment of transmission power is accomplished at the RF side of the transmitter but an adjustment of coding rate is accomplished at the L1, such as physical layer. In contrast, the limitations in the claims of the present application related to the adjustment of coding rate being easily expected through applying an adaptation link. Lin can not accomplish the adjustment of coding rate.

The Examiner admits that Lin does not disclose or suggest performing the data

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retransmission by decreasing the initial coding rate, but asserts that Gardner discloses these limitations at col. 2, lines 43-54. However, these portions merely disclose that when a mobile unit determines that it needs more transmit power than it is capable of providing, it changes its code rate to a lower code rate. This is not performing the second transmission by decreasing the initial coding rate and increasing the transmission power according to the second request, as recited in the claims of the present application. Gardner merely relates to a cellular device measuring power on a forward link path from a base station and estimating the power level that the base station needs to receive from the mobile unit for acceptable performance, and lowering the code rate if the desired transmit power level exceeds the capability of the mobile unit.

That is, the used code rate is changed into a lower code rate according to the mobile determining a desired transmit power. Further, Gardner discloses determining a code rate by a mobile unit. The code rate is changed into a lower rate according to a mobile unit determining transmit power (see Abstract, col. 2, lines 42-54). Generally, the change of the coding rate is dependent on the channel environment like Gardner. In contrast, the limitations in the claims of the present invention relate to the change of the coding rate being dependent on the second transmission signal, such as NAK signal.

Gardner does not disclose or suggest both decreasing the initial coding rate and increasing the transmission power, as recited in the claims of the present application. Moreover, the decrease in the coding rate is based on power calculations at the mobile unit from a forward

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link with a base station. This is not decreasing initial coding rate according to a second transmission request, as recited in the claims of the present application.

Further, Gardner relates to the mobile unit decreasing an initial coding rate to the base station, whereas in contrast, the limitations in the claims of the present application relate to decreasing the initial coding rate at a transmitter for retransmission to the receiving party. Moreover, none of the cited references disclose or suggest where channel environment information of the wireless communication link is not required at the transmitter for the performing. As clearly disclosed in Gardner, channel conditions are taken into consideration in the power measurements (see, col. 2 lines 18-36).

Regarding claims 3, 5, 6, 9 and 11, Applicant submits that these claims are dependent on one of independent claims 1 and 7 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. For example, none of the cited references disclose or suggest the transmission power being returned to an initialized value if a response signal is received from the receiving party after performing the retransmission.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of claims 1, 3, 5-7, 9 and 11 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claims 4 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over

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Lin, Gardner and further in view of Mousley. Applicant respectfully traverses these rejections and submits that these claims are dependent on one of independent claims 1 and 7 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicant submits that Mousley does not overcome the substantial defects noted previously regarding Lin and Gardner.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of each of the features of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

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### CONCLUSION

In view of the foregoing Amendments and remarks, Applicant submits that claims 1, 3-7 and 9-13 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Frederick D. Bailey, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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